

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

Case No. 09-52889

KAY BEE KAY PROPERTIES, LLC,¹

Chapter 11

Debtor.

Judge Thomas J. Tucker
(Jointly Administered)

ORDER REQUIRING DEBTORS TO AMEND DISCLOSURE STATEMENT

On November 25, 2009, Debtors in these jointly-administered cases filed a joint plan and disclosure statement, in a document entitled “Debtors’ Combined Plan of Reorganization and Disclosure Statement” (Docket # 152). The Court cannot yet grant preliminary approval of the disclosure statement contained within this document (“Disclosure Statement”). The Court notes the following problems, which Debtors must correct.

First, Debtors must include a separate section in the Plan, which defines one or more groups of administrative claimants, whose administrative claims are not subject to classification and who are not entitled to vote on the Plan, and which states their treatment under the Plan (*e.g.*, Group I consisting of administrative claims other than the City of Detroit, and Group II consisting of administrative tax claims of the City of Detroit, for real property taxes). Debtors must delete the language regarding impairment for claims treated in this section of the Plan.

Second, Debtors must include a separate section in the Plan (*e.g.*, “D”), which defines classes of claimants subject to classification and the class treatments. This section must not include administrative claims, because they are not subject to classification for voting purposes.

¹ The Debtors in these jointly administered cases are: Keith B. Kramer, Case No. 09-52903 and Kay Bee Kay Properties, LLC., Case No. 09-52889.

Third, Debtors must change all references to “11 U.S.C. § 503(b)(1)(B)(I)” to “11 U.S.C. § 503(b)(1)(B)(i).”

Fourth, Debtors must delete the word “priority” from Paragraph D.3 of the Plan on page 6.

Fifth, Paragraph D.11 of the Plan on page 10 describes the treatment for “Membership Interests.” Debtors must state that the Debtor Kay Bee Kay Properties, LLC has one member - Debtor Keith B. Kramer, who will retain his membership interest under the Plan.

Sixth, Debtors must amend Paragraph F.1 of the Plan on page 16 regarding “Discharge” as follows:

- Debtors must change all references to “Debtors” to “Debtor Kay Bee Kay Properties, LLC”; and
- If Debtors intend and wish to propose in the Plan that the Debtor Keith Bradley Kramer receive a discharge of any debt(s) upon confirmation of the Plan, notwithstanding 11 U.S.C. § 1141(d)(5)(A), Debtors must explicitly say so, and also must state that: “In the case of an individual debtor such as Debtor Keith Bradley Kramer, 11 U.S.C. § 1141(d)(5)(A) states that “unless after notice and a hearing the court orders otherwise for cause, confirmation of the plan does not discharge any debt provided for in the plan until the court grants a discharge on completion of all payments under the plan.”

Seventh, Debtors must provide information regarding Debtor Keith B. Kramer’s education under Paragraph II.B.1 of the Disclosure Statement on page 21. Debtors must also correct the typographical error in this paragraph by change “later” to “late.”

Eighth, Debtors must state in Paragraph II.B.2 of the Disclosure Statement on page 22 whether Keith B. Kramer has received fringe benefits, and whether he will receive fringe benefits under the Plan, and if so, what they are.

Ninth, Debtors must amend Paragraph VI.E of the Disclosure Statement on pages 28 through 29 as follows:

- Debtors must delete “(5)” in Paragraph VI.E.2 of the Disclosure Statement on page 28.
- Debtors must amend Paragraph VI.E.2(a) so that it reads: “in the case of a corporation or a limited liability company that is reorganizing and continuing business”
- Debtors must delete Paragraph VI.E.2(b) in its entirety.
- Debtors must change current Paragraph VI.E.2(c) to Paragraph VI.E.2(b).
- Debtors must change all references to 11 U.S.C. § 1141(d)(3) to “11 U.S.C. § 1141(d)(5).”

Accordingly,

IT IS ORDERED that no later than **December 9, 2009** Debtors must file an amended combined plan and disclosure statement which corrects the above stated problems.

IT IS FURTHER ORDERED that Debtors also must provide to Judge’s chambers, no later than **December 9, 2009**, a redlined version of the amended combined plan and disclosure statement, showing the changes Debtors has made to “Debtors’ Combined Plan of Reorganization and Disclosure Statement” (Docket # 152), filed November 25, 2009. Debtor must submit this redlined document to chambers electronically, through the Court’s order submission program.

Signed on December 03, 2009

/s/ Thomas J. Tucker
Thomas J. Tucker
United States Bankruptcy Judge